

## **REMARKS**

In response to the above-identified Office Action ("Action"), Applicant amends the application and seeks reconsideration thereof. In this response, claims 29 and 41 have been amended, no claims have been added and claims 52-53 and 60-70 have been cancelled without prejudice. Accordingly, claims 1-51, 54-59 and 71-73 are pending.

### **I. Claim Amendments**

In response to the outstanding Action, Applicant amends claims 29 and 41 to correct informalities noted by the Examiner. Applicant respectfully requests consideration and entry of the attached amendments at the Examiner's earliest convenience.

### **II. Drawing Objection**

In the outstanding Action the Examiner objects to Figure 11 under 37 CFR 1.84(p)(5) because it includes the reference character "10002" not mentioned in the specification. Applicant respectfully submits, reference character "10002" was incorrectly printed and is corrected in the attached "Replacement Sheet" to correctly recite "1002" as referenced in the specification. See Application, page 10, paragraph [0041]. In view of the foregoing, Applicant respectfully requests reconsideration and withdrawal of the objection to the drawings on this basis.

### **III. Specification Objection**

Applicant notes that it is asserted in the Action that the specification is objected for not including a section entitled "Brief Summary of the Invention." Applicant notes that 37 CFR §1.77(b) asserts that the specification "should include" a "Brief Summary of the Invention." Applicant respectfully traverses the aforementioned objection for the following reasons.

Applicant notes that 37 CFR §1.77(c) asserts that "[t]he text of the specification sections defined in paragraphs (b)(1) through (b)(11) of this section, if applicable, should be preceded by a section heading in uppercase and without underlining." (Emphasis added). Applicant notes that 37 CFR §1.73 asserts that "Such summary should, when set forth, be commensurate with the invention as claimed and any object recited should be that of the invention as claimed. (Emphasis added). Applicant also notes that MPEP section 608.01(d) asserts that "[a] brief summary of the invention indicating its nature and substance, which may include a statement of the object of the invention, should precede the detailed description. Such summary, should, when set forth, be commensurate with the invention as claimed and any object recited should be that of the invention as claimed." (Emphasis added). The plain English meaning of the terms "when set forth" indicate that the summary need not be included in an application. Since 37 CFR §1.77(c) uses the terms "if applicable," 37 CFR §1.73 and MPEP section 608.01(d) asserts "when set forth," it is clear that inclusion of a Brief Summary of the Invention section is not mandatory. Since the MPEP follows the language of the CFR, and includes the terms "when set forth," there is no indication, whatsoever, that a Brief Summary of the Invention section must mandatorily be included in an application for patent. Therefore, according to the CFR and MPEP, Applicant elects not to include a "Brief Summary of the Invention." Applicant also notes that according to 37 CFR §1.77(c), sections indicated in 37 CFR §1.77(b)(1)-(b)(11) that are not applicable need not be included in the application.

Accordingly, withdrawal of the specification objection for not including a "Brief Summary of the Invention" is respectfully requested.

#### IV. Claim Objections

In the outstanding Action the Examiner objects to claims 19 and 41 for various informalities and requests correction. Applicant respectfully submits herewith amendments to claims 19 and 41 in which claim 19 is corrected to recite "apparatus of

claim 28" and claim 41 is corrected to recite "a first acute angle" pursuant to the Examiner's request.

**V. Claims Rejected Under 35 U.S.C. §102**

A. In the outstanding Action the Examiner rejects claims 1-4, 21, 22, 28, 29 and 40 under 35 U.S.C. §102 as being anticipated by U.S. Patent Publication No. 200440130645 Ohmura et. al. ("Ohmura"). Applicant respectfully traverses the rejection for at least the reasons set forth below.

It is axiomatic that to find anticipation each and every element of the claims must be taught by a single reference. In regard to independent claim 1, Applicant respectfully submits Ohmura fails to teach at least the elements of "a grip" and binocular display rotatable about the grip "between a plurality of angular positions which can be maintained during use" as required by claim 1.

The Examiner alleges the "mounting tool" 231 taught by Ohmura teaches the claimed "grip" and that rotation of the binocular display to "angular positions which can be maintained during use" would be inherent. See Action, page 5, paragraph 5.

Applicant respectfully submits "mounting tools 231" may not be characterized as the "grip" of claim 1. The Examiner alleges mounting tool 231 is used to "grip the users ear in operation" and therefore is a grip. Nowhere, however, does Ohmura teach mounting tool 231 performs such a function. Instead, Ohmura teaches mounting tool 231 is substantially linear with only a slight downward curve at its end. See Ohmura, Figure 27. Ohmura further teaches tool 231 functions as a mounting tool "by putting those on the ears like spectacles." See Ohmura, page 21, paragraph [0381]. As is apparent from any standard dictionary, the term "grip" may be understood to refer to an object, such as for example a handle, designed to be grasped or to secure and maintain a tight hold on another object. The part of a spectacle designed to rest over the ear (tool 231) as taught by Ohmura does not fall within this definition. Thus, for at least the foregoing reasons, Ohmura fails to teach "a grip" as recited in claim 1.

The Examiner has further not shown rotation of the binocular display to “angular positions which can be maintained during use” would necessarily be found within the device taught by Ohmura. The Examiner alleges this feature is inherent on the basis that different apparatus 200F positions would be used depending on the size of the person’s head. See Action, page 5, paragraph 5. Nowhere does Ohmura teach rotation of apparatus 200F about tool 231 to accommodate the size of a user’s head. Moreover, nowhere does Ohmura teach that a plurality of angular positions between tool 231 and apparatus 200F may be maintained during use of the device. When the apparatus 200F is in use it is presumably positioned in front of the user’s face and mounted over the user’s ear with tool 231, thus only one position, the position required to mount the device in front of the user’s face, may be maintained during use. Moreover, maintenance of a plurality of angular positions by Ohmura would depend on a variety of factors, including the tension of the hinge between tool 231 and apparatus 200F. Under the Doctrine of Inherency the alleged inherent feature must be present, it is not sufficient that it may or could be. Thus, in as much as only one angular position between tool 231 and apparatus 200F may be maintained during use of the device, Applicant’s claimed rotation of the binocular display to “angular positions which can be maintained during use” is not inherent within the reference. Thus, for at least the foregoing reasons, Ohmura fails to teach each and every element of claim 1. Since each element is not taught by the reference anticipation may not be found. For the foregoing reasons, Applicant respectfully requests reconsideration and withdrawal of the rejection of claim 1 under 35 U.S.C. §102(b) as being anticipated by Ohmura.

In regard to claim 4, claim 4 depends from claim 1 and incorporates the limitations thereof. Thus, at least for the reasons discussed in regard to claim 1, Ohmura fails to teach each element of claim 4 therefore anticipation may not be found. Moreover, the Examiner’s suggestion that the folding of mounting tools 231 over apparatus 200F teaches a stowed and deployed orientation wherein “in the stowed orientation, at least 25% of a deployed volume of the display assembly overlaps with a volume of a grip” as required by claim 4 is nonsensical. It is well settled under

Archimedes principal that the volume of an object is equal to the volume of fluid displaced thereby. An overlap in volume means that the volumes occupy the same space at the overlap thus reducing the aggregate volume of the two elements that overlap. The mere folding of mounting tools 231 over apparatus 200F does not change the volume of fluid displaced by the apparatus of Ohmura. Accordingly, the assertion that this folding results in overlapping volumes is factually in error. For the foregoing reasons, Applicant respectfully requests reconsideration and withdrawal of the rejection of claim 4 under 35 U.S.C. §102(b) as being anticipated by Ohmura.

In regard to dependent claim 21, claim 21 depends from claim 1 and incorporates the limitations thereof. Thus, for at least the reasons discussed above with respect to claim 1, Ohmura fails to teach each and every element found in claim 21. In addition, the Examiner's statement that the additional element of "at least a first position is suitable for right handed use and at least a second position is suitable for left-handed use" is inherent within Ohmura since the "user's right or left hand could hold either the right or left mounting tools" is inconsistent in view of the Examiner's previous characterization of the mounting tool. In particular, the Examiner rejects claim 1 on the basis that during use, the mounting tool grips the ear, but now argues the mounting tool is to be held by the user's right or left hand during use. Applicant respectfully submits, the Examiner's conflicting characterizations of the mounting tools render the device of Ohmura unsuitable for its intended purpose since the mounting tools can no longer grip the user's ears as alleged by the Examiner if they are held within the user's hands. Applicant respectfully submits, the Examiner may not have it both ways and has certainly not shown this element is inherent within Ohmura. For the foregoing reasons, Applicant respectfully requests reconsideration and withdrawal of the rejection of claim 21 under 35 U.S.C. §102(b) as being anticipated by Ohmura.

In regard to dependent claims 3 and 22, these claims depend from claim 1 and incorporate the limitations thereof. Thus, for at least the reasons discussed above with respect to claim 1, Ohmura fails to teach each and every element found in claims 3 and

22. Since Ohmura fails to teach all the elements of claims 3 and 22 anticipation may not be found. For the foregoing reasons, Applicant respectfully requests reconsideration and withdrawal of the rejection of claims 3 and 22 under 35 U.S.C. §102(b) as being anticipated by Ohmura.

In regard to independent claim 28, for at least the reasons discussed in regard to claim 1, Ohmura fails to teach “a grip having a stowed and a deployed orientation.” Since Ohmura fails to teach each and every element of claim 28, anticipation may not be found. For the foregoing reasons, Applicant respectfully requests reconsideration and withdrawal of the rejection of claim 28 under 35 U.S.C. §102(b) as being anticipated by Ohmura.

In regard to dependent claim 29, claim 29 depends from claim 28 and incorporates the limitations thereof. Thus, for at least the reasons that Ohmura fails to teach each and every element of claim 28, all the elements of claim 29 are not found within the reference. Ohmura may further not be relied upon to teach the additional element of “wherein in the stowed orientation at least 25% of a deployed volume of the display assembly overlaps a volume of the grip” for at least the reasons previously discussed in the traversal of claim 4 over Ohmura. For the foregoing reasons, Applicant respectfully requests reconsideration and withdrawal of the rejection of claim 29 under 35 U.S.C. §102(b) as being anticipated by Ohmura.

In regard to claim 40, claim 40 depends from claim 28 and incorporates the limitations thereof. Thus, for at least the reasons that Ohmura fails to teach each and every element of claim 28, all the elements of claim 40 are not found within the reference. For the foregoing reasons, Applicant respectfully requests reconsideration and withdrawal of the rejection of claim 40 under 35 U.S.C. §102(b) as being anticipated by Ohmura.

B. In the outstanding Action the Examiner rejects claim 28 under 35 U.S.C. §102 as being anticipated by U.S. Patent No. 4,864,425 issued to Blazek et. al. ("Blazek"). Applicant respectfully traverses the rejection for at least the reasons set forth below.

In regard to independent claim 28, Blazek fails to teach at least the elements of the "digital assembly having a stowed orientation" and a deployed position in which the "hand holding the grip is laterally displaced relative to a frontal face of a head of a user." The Examiner alleges an orientation where hand-grip 37 is disposed within brackets via loosening Allen bolt 38 and adjusting hand-grip 37 teaches a stowed position citing to Blazek, col. 6, lines 18-31 in support. Applicant respectfully submits the portion of Blazek relied upon by the Examiner does refer to a "stowed orientation" nor does it discuss loosening Allen bolt 38 and inserting hand-grip 37 within the bracket as alleged by the Examiner. Still further, the figures do not show such a configuration. Thus, it appears Allen bolt 38 is more properly designed to rigidly secure the camera to the end of hand-grip 37. Accordingly, not only does Blazek not expressly teach such a configuration, Applicant's claimed "stowed orientation" is not even contemplated by the reference.

Moreover, the element of "hand holding the grip is laterally displaced relative to a frontal face of a head of a user" as recited in claim 28 is not inherently found within Blazek. The Examiner alleges this feature is inherent since a hand holding the grip is laterally displaced from the frontal face of a head of the user. Applicant respectfully submits, the Examiner does not point to a portion of Blazek teaching such an orientation nor is such an orientation shown in the figures. Thus, in as much as the hand-grip 38 may be held in a position other than lateral to the front of the face of a head of the user, this element is not necessarily found within the reference.

Thus, for at least these reasons Blazek fails to teach each and every element of claim 28 therefore anticipation may not be found. For the foregoing reasons, Applicant respectfully requests reconsideration and withdrawal of the rejection of claim 28 under 35 U.S.C. §102(b) as being anticipated by Blazek.

C. In the outstanding Action the Examiner rejects claims 1, 23-26, 28, 47-50, 55-59 under 35 U.S.C. §102 as being anticipated by U.S. Patent Publication No. 20040237176 issued to Himmele et. al. ("Himmele"). Applicant respectfully traverses the rejection for at least the reasons set forth below.

Applicant respectfully submits Himmele is not a proper reference. Himmele is a continuation in part application of three prior continuation in part applications, all of which are continuations in part from parent U.S. Patent No. 6,369,958, filed on March 10, 2000. Himmele itself was filed on June 15, 2004 whereas the instant application was filed on November 9, 2001. Since only the parent has a filing date preceding the instant application, only those features of Himmele relied upon by the Examiner which were disclosed within the parent may be relied upon as prior art. Applicant respectfully submits, in regard to claims 1, 28 and 55, the Examiner alleges Himmele teaches "a digital display assembly" however at least this feature of claims 1, 28 and 55 is not disclosed in parent U.S. Patent No. 6,369,958 and thus is not taught by the relevant prior art. Thus, for at least these reasons Himmele does not anticipate claims 1, 28, 55 and their dependent claims. For the foregoing reasons, Applicant respectfully requests reconsideration and withdrawal of the rejection of claims 1, 23-26, 28, 47-50, 55-59 under 35 U.S.C. §102(b) as being anticipated by Himmele.

D. In the outstanding Action the Examiner rejects claim 28, 31, 34, 35, 41-44 under 35 U.S.C. §102 as being anticipated by U.S. Patent No. 6,384,863 issued to Bronson ("Bronson"). Applicant respectfully traverses the rejection for at least the reasons set forth below.

In regard to independent claim 28, Applicant respectfully submits Bronson fails to teach at least the element of a digital display assembly having "a deployed orientation, such that, in the deployed orientation, the display is laterally displaced relative to the grip" as required by claim 28. The Examiner alleges this element is taught by Figure 1B and col. 4, lines 52-60 of Bronson. Applicant has reviewed these portions of Bronson and fails to see where lateral displacement of the display relative to



the grip is taught. Instead, Bronson teaches vertical displacement of the digital camera relative to grip 100. Thus, for at least these reasons Bronson fails to teach each and every element of claim 28 therefore anticipation may not be found. For the foregoing reasons, Applicant respectfully requests reconsideration and withdrawal of the rejection of claim 28 under 35 U.S.C. §102(b) as being anticipated by Bronson.

In regard to dependent claims 31 and 35, these claims depend from claim 28 and incorporate the limitations thereof. Thus, at least for the reason that Bronson fails to anticipate claim 28, claims 31 and 35 are not anticipated by the reference. Bronson further fails to teach the additional elements of “a sensor to detect relative rotation of the display assembly” recited in claim 31 and “a sensor to detect a position of the display assembly” recited in claim 35. Apparently recognizing the failure of Bronson to expressly teach these elements the Examiner alleges the sensor is inherently found within Bronson because the processor inherent in a digital camera acts as a sensor since the processor senses by an inherent means of software or hardware whether the camera is in portrait or landscape position to position the array back to portrait or landscape position depending on the current position. Bronson however fails to describe a processor, software or hardware as providing a sensing function, the presence of which the Examiner relies upon in support of his conclusion of inherency. Thus, in as much as any one of these features relied upon by the Examiner may not necessarily be designed for detection of relative rotation or position of the display assembly, the “sensor” as recited in claims 31 and 35 is not inherently found within Bronson. For the foregoing reasons, Applicant respectfully requests reconsideration and withdrawal of the rejection of claims 31 and 35 under 35 U.S.C. §102(b) as being anticipated by Bronson.

In regard to dependent claim 41, claim 41 depends from claim 28 and incorporates the limitations thereof. Thus, at least for the reason that Bronson fails to anticipate claim 28, claim 41 is not anticipated by the reference. Bronson further fails to teach the additional elements of a deployed orientation wherein the “grip defines a first acute angle away from a body of an operator to permit comfort and reduce stress on the

hand and arm” recited in claim 41. Apparently recognizing the failure of Bronson to expressly teach this element, the Examiner alleges this element is inherent within the reference as the body of an operator could be at a position where the grip is at an acute angle away from the body of the operator. Bronson however fails to contemplate an angled grip orientation. Moreover, the position suggested by the Examiner would not permit comfort and reduce stress on the hand and arm as required by claim 41. The display and grip of Bronson are fixed at an angle of 180 degrees with respect to one another therefore more work and/or stress on the part of the user would be required for the grip to define an acute angle away from the body since the user must rotate their hand or arm to achieve this orientation. Thus, in as much as the grip may not necessarily be rotated by the user to achieve an acute angle away from the body, this element is not inherently found within Bronson. For the foregoing reasons, Applicant respectfully requests reconsideration and withdrawal of the rejection of claim 41 under 35 U.S.C. §102(b) as being anticipated by Bronson.

In regard to claims 42-44, these claims depend from claim 28 and incorporate the limitations thereof. Thus, for at least the reasons that Bronson fails to teach each and every element of claim 28, all the elements of claims 42-44 are not found within the reference. For the foregoing reasons, Applicant respectfully requests reconsideration and withdrawal of the rejection of claims 42-44 under 35 U.S.C. §102(b) as being anticipated by Bronson.

E. In the outstanding Action the Examiner rejects claim 54 under 35 U.S.C. §102 as being anticipated by U.S. Patent No. 6,597,346 issued to Harvey et. al. (“Harvey”). Applicant respectfully traverses the rejection for at least the reasons set forth below.

Applicant respectfully submits Harvey fails to teach at least the element of a “pointer interface providing absolute mapping” as required by claim 54. The Examiner alleges element 30 of Harvey teaches a pointer interface providing absolute mapping. Harvey teaches element 30 is operated similar to a standard computer mouse. See Harvey, col. 5, lines 30-34. A computer mouse maps with relative motion, not absolute

mapping. Accordingly, the Examiner has not pointed to and Applicant is unable to discern a portion of Harvey teaching “a pointer interface providing absolute mapping” as required by claim 54. Thus, at least for the reason that Harvey fails to teach this element of claim 54, anticipation may not be found. For at least the foregoing reasons, Applicant respectfully requests reconsideration and withdrawal of the rejection of claim 54 under 35 U.S.C. §102(b) as being anticipated by Harvey.

F. In the outstanding Action the Examiner rejects claims 71-73 under 35 U.S.C. §102 as being anticipated by U.S. Patent No. 6,249,309 issued to Shibata (“Shibata”). Applicant respectfully traverses the rejection for at least the reasons set forth below.

In regard to independent claim 71, Shibata fails to teach at least the element of “a display integrated into the camera, the display having a first region to display first image at a full display resolution and a second region to simultaneously display a second image at substantially reduced resolution” as required by claim 71. Instead, Shibata teaches the apparatus of Figure 15 cited by the Examiner is teleconference terminal equipment 2001 having a body including a monitor, camera window, a camera built in behind the window, ringer speaker and base. See Shibata, col. 14, lines 45-56. During a teleconference a received picture from an outside party is displayed on the screen of the monitor. See Shibata, col. 21, lines 11-30. In addition, a minor frame at the right hand corner of the monitor may be provided for further display of a picture taken by the camera built into the body of the teleconference equipment 2001. See Shibata, col. 21, lines 11-30. It is thus clear from the teachings of Shibata that the “display” is the screen of monitor 2101, much like that found in a computer system. See Shibata, Figure 15. A monitor screen such as that taught by Shibata which displays both images teleconferenced in from outside sources and images obtained by a camera built into the system 2001, may not be characterized as “a display integrated into the camera” (emphasis added) for displaying first and second images at different resolutions as required by claim 71. Thus, at least for the reason that Shibata fails to teach these elements of claim 71, anticipation may not be found. For at least the foregoing reasons,

Applicant respectfully requests reconsideration and withdrawal of the rejection of claim 71 under 35 U.S.C. §102(b) as being anticipated by Shibata.

## VI. Claims Rejected Under 35 U.S.C. §103

A. In the outstanding Action the Examiner rejects claims 1, 4, 7, 8, 10-15, 17 and 18 under 35 U.S.C. §103(a) as being obvious over U.S. Patent No. 5,581,399 issued to Abe ("Abe"), and further in view of Bronson.

To establish a *prima facie* case of obviousness, the Examiner must show that the cited reference teaches or suggests every limitation of the claim such that the invention as a whole would have been obvious at the time the invention was made to one skilled in the art.

In regard to claim 1, neither Abe nor Bronson teach or suggest at least the element of the binocular digital display assembly "rotatable about the grip between a plurality of angular positions which can be maintained during use" (emphasis added) as required by claim 1. The Examiner admits Abe fails to teach this element and instead relies upon Bronson. As previously discussed, the display and grip of Bronson do not rotate a plurality of angular positions about one another and instead the display may only be raised from the grip in a vertical direction thus maintaining a 180 degree alignment. See Bronson, Figures 1B, 2B. Accordingly, the Examiner has failed to show that Abe and Bronson, alone or in combination, teach or suggest each of the elements of claim 1. Since the combined references relied upon by the Examiner fail to teach or suggest each and every element of claim 1 a *prima facie* case of obviousness may not be established. Applicant respectfully requests reconsideration and withdrawal of the rejection of claim 1 under 35 U.S.C. §103 over Abe in view of Bronson.

In regard to claim 8, claim 8 depends from claim 1 and incorporates the limitations thereof. Thus for at least the reason that Abe in view of Bronson fail to render claim 1 *prima facie* obvious, claim 8 is not obvious in view of the references. The references further fail to teach the additional element of a "sensor to detect a position of

the display assembly relative to the ISA” as recited in claim 8. The Examiner apparently recognizes the failure of the references to expressly teach this element and instead relies upon the doctrine of inherency stating this feature would be inherently found within Bronson. As previously discussed in the traversal of claims 31 and 35, the Examiner has not shown a sensor is necessarily present within Bronson nor that it is designed for detection of a position of the display assembly, thus the Examiner has not established this feature is inherent within the device taught by Bronson. Since the combined references relied upon by the Examiner fail to teach or suggest each and every element of claim 8 a *prima facie* case of obviousness may not be established. Applicant respectfully requests reconsideration and withdrawal of the rejection of claim 8 under 35 U.S.C. §103 over Abe in view of Bronson.

In regard to claim 11, claim 11 depends from claim 1 and incorporates the limitations thereof. Thus for at least the reason that Abe in view of Bronson fail to render claim 1 *prima facie* obvious, claim 11 is not obvious in view of the references. The references further fail to teach the additional element of a “photographic light source positioned sufficiently far from the lens assembly to reduce illumination error” as recited in claim 11. The Examiner apparently recognizes the failure of the references to expressly teach this element and instead relies upon the doctrine of inherency. In particular, the Examiner alleges Abe Figure 1, element 150 teaches a fill-in flash and further that the fill-in flash of Bronson is of sufficient space to avoid errors and when combined with Abe, this same distance would apply. See Action, page 20. Applicant has reviewed the portion of Abe cited by the Examiner and fails to see where element 150 or a fill-in flash is disclosed. Moreover, Bronson does not discuss illumination errors or ways of reducing illumination errors therefore it is questionable whether the alleged fill-in flash is of a sufficient space to avoid errors. Thus, in as much as the flash of Abe or Bronson does not necessarily reduce illumination errors, the Examiner has not established this feature is inherent within the references. Since the combined references relied upon by the Examiner fail to teach or suggest each and every element of claim 11 a *prima facie* case of obviousness may not be established. Applicant respectfully

requests reconsideration and withdrawal of the rejection of claim 11 under 35 U.S.C. §103 over Abe in view of Bronson.

In regard to claims 4, 7, 10, 12-15, 17 and 18, these claims depend from claim 1 and incorporate the limitations thereof. Thus for at least the reason that claim 1 is not *prima facie* obvious over Abe in view of Bronson, claims 4, 7, 10, 12-15, 17 and 18 are also not obvious over the references. Applicant respectfully requests reconsideration and withdrawal of the rejection of claims 4, 7, 10, 12-15, 17 and 18, under 35 U.S.C. §103 over Abe in view of Bronson.

**B.** In the outstanding Action the Examiner rejects claims 5 and 6 under 35 U.S.C. §103(a) as being obvious over Abe in view of Bronson and further in view of U.S. Patent No. 4,326,783 issued to Kawamura et. al. ("Kawamura").

Claims 5 and 6 depend from claim 1 and incorporate the limitations thereof. For at least the reasons previously discussed, Abe in view of Bronson fail to teach or suggest at least the element of the digital display "rotatable about the grip between a plurality of angular positions which can be maintained during use" as required by claim 1 and incorporated into claims 5 and 6. The Examiner has failed to point to, and the Applicant is unable to discern a portion of Kawamura teaching this element. Thus, at least for the reason that neither Abe, Bronson nor Kawamura, alone or in combination teach or suggest all the elements of claims 5 and 6, the Examiner has not established these claims are *prima facie* obvious over the references. Applicant respectfully requests reconsideration and withdrawal of the rejection of claims 5 and 6 under 35 U.S.C. §103 over Abe in view of Bronson and further in view of Kawamura.

**C.** In the outstanding Action the Examiner rejects claim 9 under 35 U.S.C. §103(a) as being obvious over Ohmura.

Claim 9 depends from claim 1 and incorporates the limitations thereof. For at least the reasons previously discussed, Ohmura fails to teach at least the element of "a grip" as recited in claim 1 and thus required by claim 9. The Examiner has further

failed to show this feature is suggested by the teachings of Ohmura. Thus at least for the reason that Ohmura fails to teach or suggest each and every element of claim 9, a *prima facie* case of obviousness may not be established. Applicant respectfully requests reconsideration and withdrawal of the rejection of claim 9 under 35 U.S.C. §103 over Ohmura.

D. In the outstanding Action the Examiner rejects claim 16 under 35 U.S.C. §103(a) as being obvious over Abe in view of Bronson and further in view of Blazek.

Claim 16 depends from claim 1 and incorporates the limitations thereof. For at least the reasons previously discussed, Abe in view of Bronson fail to teach or suggest at least the element of the digital display “rotatable about the grip between a plurality of angular positions which can be maintained during use” as required by claim 1 and incorporated into claim 16. As previously discussed, Blazek suggests Allen bolt 38 is designed to rigidly secure the camera to the end of hand-grip 37, not rotate the display about the grip between a plurality of angular positions which can be maintained during use. See, Blazek, col. 6, lines 18-31. Thus, the Examiner has failed to point to, and the Applicant is unable to discern a portion of the references, alone or in combination, teaching or suggesting all the elements of claim 16. Accordingly, at least for the reason that neither Abe, Bronson nor Blazek, alone or in combination teach or suggest all the elements of claim 16, the Examiner has not established these claims are *prima facie* obvious over the references. Applicant respectfully requests reconsideration and withdrawal of the rejection of claim 16 under 35 U.S.C. §103 over Abe in view of Bronson and further in view of Blazek.

E. In the outstanding Action the Examiner rejects claims 19 and 45 under 35 U.S.C. §103(a) as being obvious over Ohmura in view of Kubo.

In regard to claims 19 and 45, claim 19 depends from claim 1 and claim 45 depends from claim 28 and incorporate the limitations thereof. For at least the reasons previously discussed, Ohmura fails to teach “a grip” as recited in claims 1 and 28 and

therefore found within claims 19 and 45. The Examiner has failed to point to, and Applicant is unable to discern, a portion of Kubo teaching or suggesting this element. Accordingly, since neither Ohmura nor Kubo, alone or in combination teach or suggest each of the elements of claims 19 and 45 a *prima facie* case of obviousness may not be established. Applicant respectfully requests reconsideration and withdrawal of the rejection of claims 19 and 45 under 35 U.S.C. §103 over Ohmura in view of Kubo.

F. In the outstanding Action the Examiner rejects claim 20 under 35 U.S.C. §103(a) as being obvious over Abe in view of Bronson and further in view of Kubo.

Claim 20 depends from claims 1 and 7 and incorporates the limitations thereof. For at least the reasons previously discussed, Abe in view of Bronson fail to teach or suggest at least the element of the digital display “rotatable about the grip between a plurality of angular positions which can be maintained during use” as required by claim 1 and incorporated into claim 20. The Examiner has failed to point to, and the Applicant is unable to discern a portion of Kubo teaching or suggesting this element. Thus, at least for the reason that neither Abe, Bronson nor Kubo, alone or in combination teach or suggest all the elements of claim 20, the Examiner has not established claim 20 is *prima facie* obvious over the references. Applicant respectfully requests reconsideration and withdrawal of the rejection of claim 20 under 35 U.S.C. §103 over Abe in view of Bronson and further in view of Kubo.

G. In the outstanding Action the Examiner rejects claims 27 and 51 under 35 U.S.C. §103(a) as being obvious over Himmele.

Claim 27 depends from claim 1 and claim 51 depends from claim 28 and therefore incorporate the limitations thereof. As previously discussed, the Examiner has improperly relied upon Himmele as a reference in rejecting claims 1 and 28. Thus, at least for the reason that Himmele may not be relied upon to teach or suggest the element of a “digital display assembly” as recited in claims 1 and 28, claims 27 and 51 are not *prima facie* obvious over Himmele. Moreover, the Examiner may not rely upon



Official Notice to suggest the further element of the “timer that times out after a predetermined time during which no display even occurred, the time out causing the display to activate” recited in claims 27 and 51. It is questionable whether a conventional timer noted by the Examiner may time out after a predetermined time when an event such as a lack of display occurs. Thus, in as much as the alleged “well known” fact is not capable of instant and unquestionable verification, Official Notice may not be relied upon in teaching this element of claims 27 and 51. Thus, at least for the reason that neither Himmele nor Official Notice, alone or in combination, may be relied upon to teach or suggest all the elements of claims 27 and 51, the Examiner has not established claims 27 and 51 are *prima facie* obvious. Applicant respectfully requests reconsideration and withdrawal of the rejection of claims 27 and 51 under 35 U.S.C. §103 over Himmele in view of Official Notice.

H. In the outstanding Action the Examiner rejects claim 30 under 35 U.S.C. §103(a) as being obvious over Bronson in view of Blazek.

Claim 30 depends from claim 28 and incorporates the limitations thereof. For at least the reasons previously discussed, Bronson fails to teach or suggest at least the element of “a stowed orientation and a deployed orientation, such that, in the deployed orientation, the display is laterally displaced relative to the grip” as recited in claim 28 and therefore incorporated into claim 30. Moreover, as previously discussed Blazek fails to teach or suggest the recited stowed and deployed orientations. Accordingly, the references fail to teach or suggest at least these elements of claim 30. Since each and every element of claim 30 is not taught or suggested by the references, a *prima facie* case of obviousness may not be established. For the foregoing reasons, Applicant respectfully requests reconsideration and withdrawal of the rejection of claim 30 under 35 U.S.C. §103 as obvious over Bronson in view of Blazek.

I. In the outstanding Action the Examiner rejects claims 32 and 33 under 35 U.S.C. §103(a) as being obvious over Bronson and further in view of Kawamura.

In regard to claims 32 and 33, these claims depend from claim 28 and incorporate the limitations thereof. For at least the reasons previously discussed, Bronson fails to teach or suggest at least the element of “a stowed orientation and a deployed orientation, such that, in the deployed orientation, the display is laterally displaced relative to the grip” as recited in claim 28 and therefore incorporated into claims 32 and 33. The Examiner has not pointed to, and applicant is unable to discern a portion of Kawamura teaching this element. Accordingly, the references fail to teach or suggest at least these elements of claims 32 and 33. Since each and every element of claims 32 and 33 are not taught or suggested by the references, a *prima facie* case of obviousness may not be established. For the foregoing reasons, Applicant respectfully requests reconsideration and withdrawal of the rejection of claims 32 and 33 under 35 U.S.C. §103 as obvious over Bronson in view of Kawamura.

J. In the outstanding Action the Examiner rejects claims 36-39 under 35 U.S.C. §103(a) as being obvious over Bronson and further in view of Ohmura.

Claims 36-39 depend from claim 28 and incorporate the limitations thereof. At least for the reasons previously discussed, neither Bronson nor Ohmura, alone or in combination teach or suggest all the elements of claim 28. Accordingly, claims 36-39 may not be found *prima facie* obvious over Bronson in view of Ohmura. For the foregoing reasons, Applicant respectfully requests reconsideration and withdrawal of the rejection of claims 36-39 under 35 U.S.C. §103 as obvious over Bronson in view of Ohmura.

K. In the outstanding Action the Examiner rejects claim 46 under 35 U.S.C. §103(a) as being obvious over Bronson in view of Ohmura and further in view of Kubo.

Claim 46 depends from claim 28 and incorporate the limitations thereof. At least for the reasons previously discussed, neither Bronson nor Ohmura, alone or in combination teach or suggest all the elements of claim 28. In addition, for the reasons previously set forth, Kubo may not be relied upon to cure the deficiencies of Bronson

and Ohmura. Accordingly, claim 46 may not be found *prima facie* obvious over Bronson in view of Ohmura and further in view of Kubo. For the foregoing reasons, Applicant respectfully requests reconsideration and withdrawal of the rejection of claim 46 under 35 U.S.C. §103 as obvious over Bronson in view of Ohmura and further in view of Kubo.

**CONCLUSION**

In view of the foregoing, it is believed that all claims now pending are now in condition for allowance and such action is earnestly solicited at the earliest possible date. If there are any additional fees due in connection with the filing of this response, please charge those fees to our Deposit Account No. 02-2666. Questions regarding this matter should be directed to the undersigned at (310) 207-3800.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR, & ZAFMAN LLP

Dated: 11/3/05 By: Thomas Coester  
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**CERTIFICATE OF MAILING**

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail with sufficient postage in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on November 3, 2005.

Jean Svoboda  
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